

Department of Health
Notice of Rulemaking Hearing
Board for Licensing Health Care Facilities
Division of Health Care Facilities

There will be a hearing before the Board for Licensing Health Care Facilities to consider the promulgation of amendment of rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 68-11-202 and 68-11-209. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Division of Health Care Facilities Conference Room on the fifth floor of the Heritage Place Metrocenter located at 227 French Landing, Suite 501, Nashville, TN at 10:00 a.m. (CST) on the 17th day of January, 2007.

Any individuals with disabilities who wish to participate in these proceedings (review these filings) should contact the Department of Health, Division of Health Care Facilities to discuss any auxiliary aids or services needed to facilitate such participation or review. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date such party intends to review such filings), to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with the ADA Coordinator at the Division of Health Care Facilities, Fifth Floor, Heritage Place Metrocenter, 227 French Landing, Suite 501, Nashville, TN 37243, (615) 741-7598.

For a copy of the entire text of this notice of rulemaking hearing visit the Department of Health's web page on the Internet at www.state.tn.us/health and click on "rulemaking hearings" or contact: Steve Goodwin, Health Facility Survey Manager, Division of Health Care Facilities, 227 French Landing, Suite 501, Heritage Place Metrocenter, Nashville, TN 37243, (615) 741-7598.

Substance of Proposed Rules

Chapter 1200-8-10
Standards for Ambulatory Surgical Treatment Centers

Chapter 1200-8-32
Standards for End Stage Renal Dialysis Clinics

Chapter 1200-8-34
Standards for Home Care Organizations Providing Professional Support Services

Chapter 1200-8-35
Standards for Outpatient Diagnostic Centers

Amendments

Rule 1200-8-10-.02, Licensing Procedures, is amended by deleting subparagraph (4)(b) in its entirety and substituting instead the following language, and is further amended by adding the following language as new subparagraphs (4)(c) through (4)(f), so that as amended, the new subparagraphs (4)(b) through (4)(f) shall read:

- (4)(b) A change of ownership occurs whenever there is a change in the legal structure by which the facility is owned and operated and any ownership interest of the preceding or succeeding entity changes.
- (4)(c) Transactions constituting a change of ownership include, but are not limited to, the following:
 - 1. Transfer of the facility's legal title;
 - 2. Lease of the facility's operation;
 - 3. Dissolution of any partnership that owns, or owns a controlling interest in, the facility;
 - 4. One partnership is replaced by another through the removal, addition or substitution of a partner;
 - 5. Merger of a facility owner (a corporation) into another corporation where, after the merger, the owner's shares of capital stock are canceled;
 - 6. The consolidation of a corporate facility owner with one or more corporations; or,
 - 7. Transfers between levels of government.
- (4)(d) Transactions which do not constitute a change of ownership include, but are not limited to, the following:
 - 1. Changes in the membership of a corporate board of directors or board of trustees;
 - 2. Two (2) or more corporations merge and the originally-licensed corporation survives;
 - 3. Changes in the membership of a non-profit corporation;
 - 4. Transfers between departments of the same level of government; or,
 - 5. Corporate stock transfers or sales, even when a controlling interest.

- (4)(e) Management agreements are generally not changes of ownership if the owner continues to retain ultimate authority for the operation of the facility. However, if the ultimate authority is surrendered and transferred from the owner to a new manager, then a change of ownership has occurred.
- (4)(f) Sale/lease-back agreements shall not be treated as changes in ownership if the lease involves the facility's entire real and personal property and if the identity of the leasee, who shall continue the operation, retains the same legal form as the former owner.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216.

Rule 1200-8-32-.02, Licensing Procedures, is amended by deleting subparagraph (3)(b) in its entirety and substituting instead the following language, and is further amended by adding the following language as new subparagraphs (3)(c) through (3)(f), so that as amended, the new subparagraphs (3)(b) through (3)(f) shall read:

- (3)(b) A change of ownership occurs whenever there is a change in the legal structure by which the facility is owned and operated and any ownership interest of the preceding or succeeding entity changes.
- (3)(c) Transactions constituting a change of ownership include, but are not limited to, the following:
 - 1. Transfer of the facility's legal title;
 - 2. Lease of the facility's operation;
 - 3. Dissolution of any partnership that owns, or owns a controlling interest in, the facility;
 - 4. One partnership is replaced by another through the removal, addition or substitution of a partner;
 - 5. Merger of a facility owner (a corporation) into another corporation where, after the merger, the owner's shares of capital stock are canceled;
 - 6. The consolidation of a corporate facility owner with one or more corporations; or,
 - 7. Transfers between levels of government.

- (3)(d) Transactions which do not constitute a change of ownership include, but are not limited to, the following:
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 2. Two (2) or more corporations merge and the originally-licensed corporation survives;
 3. Changes in the membership of a non-profit corporation;
 4. Transfers between departments of the same level of government; or,
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- (3)(f) Sale/lease-back agreements shall not be treated as changes in ownership if the lease involves the facility's entire real and personal property and if the identity of the leasee, who shall continue the operation, retains the same legal form as the former owner.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-210, and 68-11-216.

Rule 1200-8-34-.02, Licensing Procedures, is amended by deleting subparagraph (3)(b) in its entirety and substituting instead the following language, and is further amended by adding the following language as new subparagraphs (3)(c) through (3)(f), so that as amended, the new subparagraphs (3)(b) through (3)(f) shall read:

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- (3)(c) Transactions constituting a change of ownership include, but are not limited to, the following:
1. Transfer of the facility's legal title;
 2. Lease of the facility's operation;

3. Dissolution of any partnership that owns, or owns a controlling interest in, the facility;
4. One partnership is replaced by another through the removal, addition or substitution of a partner;
5. Merger of a facility owner (a corporation) into another corporation where, after the merger, the owner's shares of capital stock are canceled;
6. The consolidation of a corporate facility owner with one or more corporations; or,
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(3)(d) Transactions which do not constitute a change of ownership include, but are not limited to, the following:

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(3)(f) Sale/lease-back agreements shall not be treated as changes in ownership if the lease involves the facility's entire real and personal property and if the identity of the leasee, who shall continue the operation, retains the same legal form as the former owner.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216.

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Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216.

Contact who can answer questions concerning this notice of rulemaking hearing, technical contact for disk acquisition, and person who will approve final copy for publication: Steve Goodwin, Health Facility Survey Manager, Division of Health Care Facilities, 227 French Landing, Suite 501, Heritage Place Metrocenter, Nashville, TN 37243, (615) 741-7598.

I certify that this is an accurate and complete representation of the intent and scope of rulemaking proposed by the Tennessee Board for Licensing Health Care Facilities.

Ann Thompson, Director
Board for Licensing Health Care Facilities

Subscribed and sworn to before me this the 7th day of November, 2006.

Notary Public

My commission expires on the 27th day of January, 2007.

The notice of rulemaking set out herein was properly filed in the Department of State on the ____ day of _____, 2006.

Riley C. Darnell
Secretary of State

By: _____